

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

(1) **KIM MANARD-HENKELMAN**, and  
(2) **SARAH McDANIEL**,

Plaintiffs,

v.

Case No. 17-CV-441-Raw

(1) **THE PORT AUTHORITY OF MUSKOGEE** ex rel. the Muskogee City-County Port Authority,  
(2) **SCOTT ROBINSON**, individually and in his individual capacity as Port Director, and  
(3) **CHRIS WILLIAMS**, individually and in his individual capacity as Deputy Port Director,

Defendants.

**JOINT MOTION TO DISMISS ALL CLAIMS OF PLAINTIFF SARAH McDANIEL AND EXCLUDE HER AS A WITNESS**

The parties jointly move the Court to enter an order (1) dismissing the claims of plaintiff Sarah McDaniel without prejudice, (2) precluding plaintiff Kim Manard-Henkelman (“Henkelman”) from calling McDaniel as a witness or otherwise using McDaniel’s testimony in any form in support of Henkelman’s claims, and (3) precluding Defendants from using the fact of McDaniel’s dismissal as evidence against Henkelman unless necessary to rebut any matters pertaining to McDaniel that may be raised by Henkelman. In support of this motion, the parties state as follows:

1. On June 22, 2018, Defendants noticed McDaniel for a deposition scheduled for Friday, July 27, 2018, at 9:00 a.m.
2. On July 24, 2018, the Court entered an order compelling McDaniel to respond to Defendants’ First Discovery Requests by July 26, 2018.
3. After entry of the Court’s July 24 order, the parties began negotiating McDaniel’s dismissal from the case. During those negotiations, McDaniel indicated that she no longer wished to

pursue her claims and instead wanted to dismiss her claims without prejudice. In response, Defendants indicated that they would only agree to a dismissal without prejudice under one of two conditions, either (1) McDaniel would still appear for her duly noticed July 27 deposition, or (2) Henkelman would agree not to call McDaniel as a witness or otherwise use McDaniel's testimony in any form in support of her claims. Plaintiffs both agreed to dismissal of McDaniel's claims under the second of these two conditions.

4. The parties have agreed to dismiss McDaniel on the following terms: (1) McDaniel's claims are dismissed without prejudice, (2) Henkelman will not call McDaniel as a witness or otherwise use McDaniel's testimony in any form in support of her claims, and (3) Defendants will not use the fact of McDaniel's dismissal as evidence against Henkelman unless necessary to rebut any matters pertaining to McDaniel that may be raised by Henkelman.

5. The parties' respectfully request that the Court enter an order effectuating the terms of the parties' agreement as set out above. The parties' agreement is conditioned upon the entry of an order including *all* of the terms referenced in ¶ 4. For that reason, the parties request that the Court either grant the present motion in its entirety or deny it in its entirety.

WHEREFORE, the parties request that the Court enter an order (1) dismissing McDaniel's claims without prejudice, (2) precluding Henkelman from calling McDaniel as a witness or otherwise using McDaniel's testimony in any form in support of Henkelman's claims, and (3) precluding Defendants from using the fact of McDaniel's dismissal as evidence against Henkelman unless necessary to rebut any matters pertaining to McDaniel that may be raised by Henkelman.

RESPECTFULLY SUBMITTED,

/s/ Grant C. Aguirre

Grant C. Aguirre

**AGUIRRE, MORELLI, AND ASSOC.**

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**SCOTT ROBINSON AND THE PORT**

**AUTHORITY OF MUSKOGEE**